

OFFICIAL RECORDS INSTRUMENT # 200005647 35 PGS

AMENDED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

FOR  
THE COLONY

VOL 1045 PAGE 369

STATE OF TEXAS

§

KNOW ALL MEN BY THESE PRESENTS:

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COUNTY OF BASTROP

§

THAT WHEREAS, Sabine Investment Company of Texas, Inc., hereinafter called the DECLARANT, is the owner and developer of The Colony, Section 1, a subdivision located in Bastrop County, Texas (the "Property"). A plat defining the Property was originally executed by DECLARANT in Book 3, Pages 178-A-180-B in the plat records of Bastrop County, Texas. However, as the most effective use of the Property was not being obtained, DECLARANT, after consent was obtained by all owners of an interest in the Property, vacated said plat on 4-25-00. After vacating the previous plat, DECLARANT then filed an amended plat with the Bastrop County Clerk's Office defining the Property. The amended plat is located in Plat Cabinet 4, Pages 1A-3B of the plat records of Bastrop County, Texas;

WHEREAS, the DECLARANT previously filed with the Bastrop County Clerk's Office the Declaration of Covenants, Conditions and Restrictions for the Colony on 2-10-00;

WHEREAS, the DECLARANT desires to convey the Property or portions hereof subject to certain protective covenants, conditions, restrictions, liens and charges hereinafter set forth;

WHEREAS, the DECLARANT desires to and herein reserves the right to add additional property to the provisions, covenants, conditions, restrictions, liens and charges hereinafter set forth; and

WHEREAS, the DECLARANT desires to create and carry out a uniform plan for the improvement, development and sale of the Property and portions thereof for the benefit of the present and future owners of the Property, the DECLARANT hereby adopts and establishes the following declarations, reservations, restrictions, covenants, conditions and easements to apply uniformly to the use, improvement, occupancy and conveyance of all or any portion of the Property, including the roads, streets, alleys and waterways herein, and each contract, instrument or deed which may be hereafter executed with regard to the Property or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to the following (regardless of whether or not the same are set out in full or by reference in said contract or deed):

NOW THEREFORE, the Declarations of Covenants, Conditions and Restrictions for the Colony previously filed on 2-10-00 are hereby vacated and replaced by these Amended Declarations of Covenants, Conditions and Restrictions for the Colony.

Further, it is hereby declared that all of the Property shall be held, sold, conveyed and occupied subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with the Property and shall be binding on all parties having any right, title or interest in or to the Property or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

## ARTICLE I

## DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases, when used in this Declaration, shall have the meanings hereinafter specified:

1.01 Architectural Control Committee. "Architectural Control Committee" (hereinafter sometimes called "Architectural Control Committee," or "ACC") shall mean the committee created pursuant to this Declaration and having the authority and responsibility delegated thereto by this Declaration.

1.02 Articles. "Articles" shall mean the Articles of Incorporation of The Colony Homeowners Association, Inc. which will be filed in the office of the Secretary of State of the State of Texas, as the same are from time to time amended.

1.03 Assessments. "Assessments" shall mean assessments of the Association and includes regular annual assessments, special assessments, assessments benefiting specific areas, assessments on sale, transfer or conveyance of Property and subassociation assessments.

1.04 Association. "Association" shall mean and refer to The Colony Homeowners Association, Inc.

1.05 Association Property. "Association Property" shall mean all real or personal property now or hereafter owned by or leased to the Association.

1.06 Beneficiary. "Beneficiary" shall mean a mortgagee under a mortgage or a beneficiary under a deed of trust.

1.07 Board. "Board" shall mean the Board of Directors of the Association.

1.08 Bylaws. "Bylaws" shall mean the Bylaws of the Association which may be adopted by the Board, as the same are from time to time amended.

1.09 DECLARANT. "DECLARANT" shall mean Sabine Investment Company of Texas, Inc., its duly authorized representatives or its successors or assigns; provided that any assignment of the rights of Sabine Investment Company of Texas, Inc., as DECLARANT, must be expressly set forth in writing and the mere conveyance of a portion of the Property without written assignment of the rights of DECLARANT shall not be sufficient to constitute an assignment of the rights of DECLARANT hereunder.

1.10 Declaration. "Declaration" shall mean this instrument and as it may be amended from time to time.

1.11 Improvement. "Improvement" or "Improvements" shall mean every structure and all appurtenances thereto of every type and kind, including, but not limited to, streets, buildings, outbuildings, patios, tennis courts, swimming pools, garages, storage buildings, fences, screening walls, retaining walls, stairs, decks, landscaping, hedges, windbreaks, plantings, planted trees and

shrubs, poles, signs, exterior air conditioning equipment, water softener fixtures or equipment, and poles, pumps, wells, tanks, reservoirs, pipes, lines, meters, antennas, towers and other facilities used in connection with water, sewer, gas, electric, telephone, regular or cable television, or other utilities.

1.12 Local Common Area. "Local Common Area" shall mean any portion of the Property, designated by the DECLARANT as a common area for the primary benefit of the Owners and occupants of a particular area.

1.13 Lot. "Lot" or "Lots" shall mean any lot within the Property as described on a duly recorded subdivision plat.

1.14 Manager. "Manager" shall mean the person, firm or corporation, if any, employed by the Association pursuant to this Declaration and delegated the duties, powers or functions of the Association.

1.15 Member. "Member" shall mean any person who is a member of the Association.

1.16 Mortgage. "Mortgage" shall mean any mortgage or deed of trust given to secure the payment of a debt.

1.17 Notice and Hearing. "Notice and Hearing" shall mean ten (10) days written notice and a hearing by the Board at which the person to whom notice is directed shall have the opportunity to be heard in person or by counsel at his expense.

1.18 Owner(s). "Owner(s)" shall mean the person or entity, including DECLARANT, holding a fee simple interest in any Lot or in all or any portion of the Property, but shall not include the Beneficiary of a Mortgage.

1.19 Person. "Person" shall mean an individual or entity having the legal right to hold title to real property.

1.20 Plans and Specifications. "Plans and Specifications" shall mean any and all documents designed to guide and control the construction or erection of any Improvement, including, but not limited to, those indicating size, shape, configuration, materials, site plans, excavation and grading plans, foundation plans, drainage plans, landscaping and fencing plans, elevation drawings, floor plans, specifications for all building products and construction techniques, samples of exterior colors, plans for utility services, and all other documentation or information relevant to such improvement.

1.21 Property. "Property" shall mean the land described as The Colony, Section 1, a subdivision located in Bastrop County, Texas, according to the plat executed by Solis Investment Company of Texas, Inc., which plat is filed in Plat Cabinet 4, pages 1A-3B in the plat records of Bastrop County, Texas, together with all land added to this Declaration as amendments or additional exhibits added in accordance with the provisions hereof.

1.22 Record, Recorded and Recordation. "Record, Recorded and Recordation" shall mean, with respect to any document, the recordation of such document in the office of the County Clerk of Bastrop County, Texas.

1.23 Recreation and Open Space. "Recreation and Open Space" shall mean all areas designated by DECLARANT, sometimes herein referred to as amenities, as recreational areas for the benefit of all Owners, and may include such items as a swimming pool, tennis courts, clubhouse, hiking/biking trails, and similar types of recreational facilities. DECLARANT shall convey Recreation and Open Space to the Association, title to said amenities, Recreation and Open Spaces to the Association for a consideration equal to the cost of the amenities and other improvements to the Recreation and Open Spaces. The Association may levy charges for the use of the Recreation and Open Spaces by Owners or non-Owners, and access to any such area or facility may be limited to persons currently paying assessments, fees and other charges, or otherwise conditioned or restricted, or made available to non-Owners, all on such terms and conditions as the Board may determine, in its sole discretion.

1.24 Subdivision. "Subdivision" shall mean a parcel of the Property which has been shown on a final subdivision plat recorded in the Plat Records of Bastrop County, Texas.

1.25 Supplemental Declaration. "Supplemental Declaration" shall mean any declaration of covenants, conditions and restrictions which may be hereafter recorded by DECLARANT, subject to all of the terms and restrictions of this Declaration and not in conflict herewith.

1.26 The Colony Residential Restrictions. "The Colony Residential Restrictions" shall mean this Declaration, together with any and all Supplemental Declarations, as either may be amended from time to time, together with the Articles and Bylaws.

1.27 The Colony Residential Rules. "The Colony Residential Rules" shall mean the rules adopted by the Board pursuant to the powers granted herein as they may be amended from time to time.

1.28 Visible From Neighboring Property. "Visible From Neighboring Property" shall mean that with respect to any given object, that such object is or would be visible to a person six (6) feet tall, standing on any part of an adjoining Lot. An adjoining Lot shall be any Lot having a common lot line except for the intervention of a street, road, right-of-way, or easement.

## ARTICLE II

### DEVELOPMENT, ANNEXATION AND WITHDRAWAL OF LAND

2.01 Development by DECLARANT. DECLARANT may add land as provided in Section 2.02 and may divide or subdivide the added Property into several areas, sell some of the Property free of these restrictions, develop some of the Property and, at DECLARANT's option, dedicate some of the Property as Local Common Areas, Recreation and Open Space, Private Roadways, or for other purposes for the benefit of the developed areas, in accordance with DECLARANT's master plan for the Property. It is contemplated that the Property will be developed pursuant to a master concept plan, which may, from time to time, be amended or modified, in which the development of and restrictions upon each portion thereof will benefit each

other portion and the whole thereof. As each area is developed or dedicated, DECLARANT may record one or more Supplemental Declarations and designate the use, classification, and such additional covenants, conditions, and restrictions as DECLARANT may deem appropriate for that area. Any Supplemental Declaration may, but need not, provide for the establishment of a subassociation to be comprised of Owners within the area subject thereto. Any Supplemental Declaration may provide its own procedure for the amendment of any provisions thereof, as for example, by a specified vote of only the Owners of some of the Property within the area subject thereto. All lands, improvements and uses in each area so developed shall be subject to both this Declaration and the Supplemental Declaration, if any, for that area.

2.02 Annexation. DECLARANT may at any time, and from time to time, add additional land to the Property. Said land to be added shall at that time be bound by the terms of these restrictions and any future modifications thereof, by filing of record a Supplementary Declaration.

### ARTICLE III

#### GENERAL RESTRICTIONS

All of the Property shall be owned, held, encumbered, leased, used, and occupied and enjoyed subject to the following limitations and restrictions:

3.01 Antennas. No exterior radio or television antenna, aerial or receiving dish greater than 24" in diameter shall be erected or maintained without the prior written approval of the ACC, except for any which may, at DECLARANT's option, be erected by DECLARANT or DECLARANT's designated representative. No radio signals, television signals, or any other form of electromagnetic radiation shall originate from any Lot which may unreasonably interfere with the reception of any television, electromagnetic or radio signal on any other Lot.

3.02 Obnoxious Activities. No nuisance, obnoxious or offensive activities shall be carried on any Lot so as to render any such Lot or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot in the vicinity thereof or to its occupants. Without limiting the generality of any of the foregoing provisions, no excessive dog barking, no exterior speakers, horns, whistles, bells or any other devices, except security devices used exclusively for security purposes, shall be located, used or placed on any such Property which are audible from neighboring Property.

3.03 Subdividing and Resubdividing. No Lot which has been finally platted shall be further divided or subdivided, nor may any easements be conveyed by the Owner thereof (including any subassociation) without the prior written approval of the ACC; provided, however, that when DECLARANT is the Owner thereof, DECLARANT may further divide and subdivide any Lot and convey an easement or other interest less than the whole, all without the approval of the ACC. Each Owner of a Lot, subject to the provisions of this Declaration, by acceptance of a Deed to said Lot, whether it is expressly stated in said Deed or not, hereby irrevocably grants to DECLARANT all consent and authority required by law to vacate the subdivision plat of which the Lot is included, or a portion thereof, and resubdivide the vacated portion, and each Owner does hereby and irrevocably appoint DECLARANT as his attorney-in-fact for the purpose of executing such instrument, or instruments, as may be required to accomplish such vacating and resubdividing; provided, however, that:

1. Any vacating and resubdividing shall require the consent of the Governmental Agency exercising control; and

2. The location, Lot lines and size of any Lot not owned by DECLARANT shall not be changed or altered by the resubdivision without the written consent of the Owner of the affected Lot.

Nothing herein shall be deemed to require the approval of the ACC for the transfer or sale of any Lot, including Improvements thereon, to more than one person, to be held by them as tenants-in-common or joint tenants, or for the grant of any Mortgage.

3.04 Signs. No sign of any kind shall be displayed to the public view without the prior written approval of the ACC, except for signs which are part of DECLARANT's overall marketing plan for the Property. Builders may erect one sign, no larger than four (4) square feet in area, per lot which has a model home or home under construction or for sale. Signs for model homes may be erected and shall be no larger than thirty-two (32) square feet. Such sign will be removed from the property immediately upon sale and closing of the home. Except as provided by this Section, the ACC shall have the right to approve signs of any type advertising a portion of the Property for sale or lease and it may set standards for the same. DECLARANT, or its assigns, will have the right to enter any Lot and to remove any sign, advertisement, billboard, or advertising structure that does not comply with the above, and in so doing shall not be subject to any liability of trespass or other tort in connection therewith or arising out of such removal. Owners may erect small identification signs with their names and address subject to ACC approval.

3.05 Rubbish and Debris. No rubbish or debris of any kind (including weeds, brush, or material of any nature deemed to be rubbish or debris by the ACC) shall be placed or permitted to accumulate upon any portion of the Property, and no odors shall be permitted to arise therefrom so as to render the Property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants. The ACC shall determine what constitutes rubbish, debris, or odors and what conditions render any portion of the Property unsanitary, unsightly, offensive or detrimental to any other Property or to its occupants, and the decision of the ACC shall be final and binding on all parties. Refuse, garbage and trash shall be kept at all times in a covered container, and such container shall be kept within an enclosed structure or appropriately screened from view. No garbage or trash shall be permitted to be buried on any Lot at any time. Composting shall be permitted only of vegetative matter and only if such composting is: (i) confined to an area to the rear of the house and in a receptacle approved by the ACC, (ii) not Visible From Neighboring Property or from any street, and (iii) maintained in an inoffensive manner.

3.06 Construction of Improvements. No Improvements shall hereafter be constructed upon any portion of the Property without the prior written approval of the ACC. During the construction of the primary residence or other substantial Improvements, the Owner shall provide or assure that the contractor employed by the Owner provide portable toilet facilities which will be maintained and serviced by a certified sanitary service company and a trash dumpster, which shall be regularly maintained. The positioning of all Improvements upon Lots within the Property is hereby expressly made subject to ACC review and approval.

**3.07 Lot Maintenance.** The Owners or occupants of all Lots shall at all times keep all weeds and grass cut in an attractive manner, and shall in no event use any Lot for storage of materials and equipment except for normal residential requirements as incident to construction of Improvements thereon as herein permitted. The exterior of each residence and garage shall be maintained in good repair, including but not limited to the maintenance of: (i) exterior paint such that no peeling of the paint exists, and (ii) rain gutters and downspouts such that they are properly attached to the residence and are functional and operational for their intended purpose. All fences, if any, which have been erected on any Lot by DECLARANT or otherwise shall be maintained in good repair by Owner, and Owner shall promptly repair or replace the same in the event of partial or total destruction. The drying of clothes outside is prohibited. New building materials used in the construction of Improvements erected upon any Lot may be placed upon a Lot at the time construction is commenced and may be maintained thereon for a reasonable time, so long as the construction progresses without undue delay, until the completion of the Improvements, after which these materials shall either be removed from the Lot or stored in a suitable enclosure on the Lot.

**3.08 Alteration or Removal of Improvements.** Any construction, other than normal maintenance, which in any way alters the exterior appearance of any Improvement, or the removal of any Improvement, shall be performed only with the written approval of the ACC.

**3.09 Use of Recreation and Open Space.** No land within any Recreation and Open Space shall be improved, used or occupied, except in such manner as shall have been approved by DECLARANT in its sole and absolute discretion.

**3.10 Violation of Declaration, Bylaws or Rules.**

(A) A violation by an Owner, his family, guests, lessees or licensees, of The Colony Residential Restrictions, Bylaws of The Colony Homeowners Association, Inc. or Rules promulgated by the Board of Directors shall authorize the Board to avail itself of any one or more of the following remedies:

(1) The right to enter the Property and Improvements, after thirty (30) days notice of the violation, and cure or abate such violation and to charge the expense thereof, if any, to such Owner, or

(2) The right to seek injunctive or any other relief provided or allowed by law against such violation and to recover from such Owner all its expenses and costs in connection therewith, including, but not limited to, attorney's fees and court costs.

Before the Board may invoke the remedy provided in Paragraphs (1) and (2) above, it shall afford the Owner Notice and a Hearing. If, after the hearing, a violation is found to exist, the Board's right to proceed with the listed remedies shall become absolute.

(B) **Failure to Pay Assessment.** The voting rights of an Owner who fails to pay any assessment authorized or permitted by this Declaration, or special charges, shall automatically be suspended and shall remain suspended until any such assessment or special charge, including penalty, interest and attorney's fees added to such assessment as authorized in Article VIII hereof, is paid in full.

3.11 Drainage. There shall be no interference with the established drainage patterns over any of the Property, except by DECLARANT, unless adequate provision is made for proper drainage and written approval by the ACC is obtained prior to any construction work or other activity which may cause such interference with established drainage patterns. No objects or structures, including but not limited to buildings, fences, or landscaping shall be allowed in a drainage easement except as may be approved by the ACC and all appropriate governmental authorities.

3.12 Hazardous Activities. No activities shall be conducted on the Property and no Improvements shall be constructed on the Property which are or might be unsafe or hazardous to any person or Property. Without limiting the generality of the foregoing, no firearms or fireworks shall be discharged upon the Property, no open fires shall be lighted or permitted except in a contained barbecue unit (while attended and in use for cooking purposes), within a safe and well-designed interior fireplace, or such campfires or picnic fires in Recreation and Open Spaces designated for such use by DECLARANT, or by the Association as to Association Property.

3.13 Temporary Structures. No tent, trailer, garage, barn, shack or other Improvement structure of a temporary nature shall be placed upon the Property, except that temporary structures necessary for storage for tools and equipment, and for office space for architects, builders and foremen during actual construction may be maintained with the approval of the ACC, such approval to include the nature, size, duration and location of such structure. DECLARANT reserves the exclusive right to erect, place and maintain such facilities in or upon any portion of the Property as in its sole discretion may be necessary or convenient while selling Lots, selling or constructing residences and constructing other Improvements upon the Property. Such facilities may be in the form of permanent or portable buildings, trailers or other facilities and may include, but not necessarily be limited to, sales, construction and financing offices, storage areas, model units, signs, and portable toilet facilities.

3.14 Mining and Drilling. No portion of the Property shall be used for the purpose of mining, drilling, boring, or exploring for or removing oil, gas, or other hydrocarbons.

3.15 Animals. No kennel or other facility for raising or boarding dogs or other animals for commercial purposes shall be kept on any part of the Property. The keeping of ordinary household pets such as dogs or cats is allowed, but no poultry, fowl, livestock or other animals may be kept on any portion of the Property. A maximum of two (2) adult dogs and/or two (2) adult cats shall be permitted. Every Owner shall erect appropriate fencing to confine all of their household pets within their Lot. All dogs off the Owner's Lot shall be on a leash. No animals shall be permitted until appropriate fencing is complete.

3.16 Unightly Articles: Vehicles. No article deemed to be unsightly by the ACC shall be permitted to remain on any portion of the Property so as to be visible from an adjoining Lot or public or Private Roadways. Liquid propane, gas, oil and other exterior tanks shall be kept within enclosed structures or permanently screened from view. No motor vehicle may be parked or stored on any part of any Lot, easement, right-of-way or Common Area or in the Private Roadway to any Lot, easement, right-of-way or Common Area unless such vehicle does not exceed: (i) six feet six inches (6'6") in height, or (ii) seven feet six inches (7'6") in width, or (iii) twenty-three (23) feet in length; and is concealed from public view inside a garage or other approved enclosure, except

passenger automobiles, passenger vans (the term "passenger vans" specifically excludes motor homes and recreation vehicles), motorcycles, pick-up trucks, or pick-up trucks with attached-bed campers, that are in operating condition, having current license plates and inspection stickers, and are in routine use as motor vehicles on the streets and highways of the State of Texas and which do not exceed: (i) six feet six inches in height, or (ii) seven feet six inches in width, or (iii) twenty-one feet in length. No non-motorized vehicle, trailer, boat, marine craft, hovercraft, aircraft, machinery or equipment or any part thereof of any kind may be parked, serviced, repaired (except minor emergency repairs) or stored, on any part of any Lot, easement, right-of-way, or Common Area or in the Private Roadway to such Lot, easement, right-of-way, or Common Area unless such object is concealed from public view inside a garage or other approved enclosure. The phrase "approved enclosure" as used in this Section shall mean any fence, structure or other improvement approved by the ACC. If a complaint is received about a violation of any part of this Section, the ACC will be the final authority on the matter. This restriction shall not apply to any vehicle, machinery, or maintenance equipment temporarily parked and in use for the construction, repair or maintenance of a house or other improvement in the immediate vicinity.

**3.17 Mobile Homes, Travel Trailers and Recreation Vehicles.** No mobile homes shall be parked or placed on any portion of the Property at any time, and no travel trailers or recreational vehicles shall be parked outside an approved enclosure on or near any portion of the Property so as to be visible from adjoining Property or from public or private thoroughfares for more than forty-eight (48) hours.

**3.18 Fences.** The construction of fences shall be restricted, and no fence shall be constructed on the Property without the prior written consent of the ACC. Galvanized chain link, wire, concrete, or concrete block fences are specifically prohibited. The ACC may, in its sole discretion, prohibit the construction of any proposed fence, or specify a different type of material for which any proposed fence must be constructed, or require that any proposed fence be screened so as not to be visible from other portions of the Property.

(A) **Subdivision Fences.** Fences shall be six feet (6') in height and shall be built of a combination of rock and wrought iron, or a combination of rock and wooden privacy fence. Columns will be made of eight inch (8") cut limestone, with three inch (3") limestone cap, and will not exceed fifty feet (50') on center for wrought iron fencing and eighteen feet (18') on center for wood privacy fencing. See "Exhibit Two" for additional details.

(B) **Interior Lot Fences.** Fences shall be four feet (4'), five feet (5') or six feet (6') in height and shall be built of wooden privacy fence. Black, vinyl coated, chain link fence is allowed so long as it is not visible from or adjoining any street. Interior lot fences may also be constructed of the same materials and design as specified for Subdivision Fences above. No fence facing a street from the front of a residential structure and extending to the side lot lines may be built more than twenty feet (20') from the back wall of the residential structure. See "Exhibit Two" for additional details.

**3.19 Mail Boxes.** No mail box shall be erected on a Lot without the prior written consent of the ACC. The ACC may, in its discretion, specify a standard mailbox design to be utilized in any neighborhood.

**3.20 Siding: Metal Roofs: Wood, Asphalt and Composition Roof Shingles.** One-story plans must have masonry on the front elevation and side elevations (exclusive of side gables, all dormers, front porches, and front gables on non-load bearing areas). Two-story plans must have masonry on the front elevation and side elevations (exclusive of side gables, all dormers, front porches, front gables on non-load bearing areas, and walls not supported by masonry below). See "Exhibit Three-A" and "Exhibit Three-B" for detail on one-story and two-story plans. Notwithstanding the foregoing, the ACC is empowered to reject a plan that meets these masonry requirements, if in the ACC's sole discretion the building would detract from the general appearance of the neighborhood. All siding shall be a lightweight concrete product. The eaves and soffits shall not be considered in computing the amount of exterior siding used. The decision of the ACC as to the percentage of exterior siding used, or shown on a construction plan, shall be final and binding on all parties. The use of wooden roof shingles is specifically prohibited. Metal roofs, asphalt roof shingles and composition roof shingles are allowed with the prior written consent of the ACC. The roof shingles shall be a 25-year dimensional asphalt or composition minimum quality or grade.

**3.21 Hunting/Trapping/Firearms.** Hunting, trapping and discharge of firearms are expressly prohibited within the Property.

**3.22 Dumping.** Dumping of ashes, trash, rubbish, sawdust, garbage, land fill, solid waste and any type of refuse and other unsightly or offensive material is expressly prohibited within the Property.

**3.23 No Overnight Parking.** No vehicle of any kind shall be allowed to park overnight on any street within the Property. Each Lot shall provide reasonable on-site parking for guests.

**3.24 Motorcycles.** The use of motorcycles and any motorized vehicles shall be limited to those which have been approved and are legal for street use. Such use shall be limited to the public streets, and the use of motorcycles and any motorized vehicle on any Common Area is expressly prohibited. No off-road use of any motorcycles or motorized vehicles shall be permitted, and all motorcycles operated within the Property shall have mufflers installed in good condition which limits the exhaust noise to no more than eighty (80) decibels, ten (10) feet from the end of the exhaust pipe.

**3.25 Trees, Shrubs and Landscaping.** The ACC shall have the right to approve the removal and/or addition of trees, shrubs, hedges, ground cover and all other landscaping, notwithstanding the landscaping requirements referenced in Section 4.08 and attached "Exhibit One". All landscaping must be maintained to be consistent with the overall style and appearance of the subdivision.

**3.26 Underground Utility Lines.** No utility lines, including but not limited to wires or other devices for the communication or transmission of telephone or electric current or power, cable television or any other type of line or wire shall be erected, placed or maintained anywhere in or upon any Property within the Subdivision unless the same shall be contained in conduit or cables installed and maintained underground or concealed in, under or on buildings or other structures as approved in writing by the ACC; provided, however, that no provision hereof shall be deemed to forbid the erection or temporary power or telephone structures incident to the construction of buildings or structures which have been previously approved in writing by the ACC. The

installation method, including, but not limited to, location and type of installation, for both temporary and permanent utilities shall be included in the Plans and Specifications and approved in writing by the ACC.

**3.27 Improvements and Alterations.** No structures, improvements, alterations, repairs (excluding routine repairs), excavations or other work which in any way alters the exterior appearance of any structure within the Subdivision or the appearance of any other Improvement located thereon from its natural or improved state existing on the date such Property was first conveyed in fee to the current Owner, purchaser or annexed by DECLARANT, whichever is later, shall be made or done without the prior approval of the ACC.

**3.28 Solar Equipment.** Request for approval of installation of any type of solar equipment shall be included in the Plans and Specifications and approved in writing by the ACC.

**3.29 Garages.** Each single family residential structure shall have a minimum two-car garage. No attached garage shall face any street. Any detached garage entry shall remain unseen from any street.

**3.30 Trees.** The native trees larger than eight (8) inches in diameter, measured six (6) feet from the base of the tree, on any Lot shall not be destroyed or removed from any Lot without the prior approval of the ACC, except such trees as may be necessary for the construction and maintenance of roads, driveways, residence, garages, septic fields, accessory buildings and/or walled-in service yards, patios and decks.

#### ARTICLE IV

#### RESIDENTIAL RESTRICTIONS

In addition to the general restrictions set forth above, the Property and any portion thereof that has been subdivided into Lots shall be subject to the following limitations and restrictions, which are designed to protect the residential character of the Property.

**4.01 Residential Use.** All Lots within the Property shall be improved and used solely for single family residential use, except that, as to any specific areas, DECLARANT may, in its sole and absolute discretion, permit other improvements and uses. Initially, Lots 1 and 2 of Block A of The Colony Section One shall be reserved for future development which may include commercial applications.

**4.02 Plans and Specifications.** Each Owner shall submit detailed Plans and Specifications, pursuant to the Rules of the ACC, and such Plans and Specifications must be approved in writing prior to the commencement of construction of any Improvements. The Plans and Specifications shall include, but not be limited to:

- a. a site plan showing the location of the home, fences, mailbox, driveway(s), septic systems and all other improvements to the Lot.
- b. a set of house plans by a registered architect, builder or designer that clearly demonstrates that the house described by the Plans is designed for the specific Lot, except

where a master set of plans has been approved by the ACC and can be repeated; and floor plans, foundation plans, building section, landscape plan, specifications including detailed descriptions and samples of all exterior materials and finishes.

#### 4.03 Time for Construction.

(A) The construction of a structure or Improvement shall be continuous and proceed in an orderly fashion without interruption, and any structure or Improvement on a Lot shall be completed in a reasonable time, not to exceed twelve (12) months from the commencement of construction.

(B) Commencement of construction shall mean the first on-site work for construction, including, but not by way of limitation, excavation or site preparation for the purpose of foundation.

(C) Materials and equipment necessary for construction, and all debris resulting from clearing or construction shall be confined to the Lot and stored in either a dumpster or bin and removed at the end of construction, and shall not be left on any other Lots, Common Areas, or roadway.

4.04 Improvements and Use. The Property described in Section 1.21 shall be used as homesites for single-family residences only. All Lots within such areas shall be improved and used solely for single-family residences, with the exception of Lots 1 and 2 of Block A described in Section 4.01, which may be used for commercial applications. No Lots within any portion of the Property designated by DECLARANT for use as single-family residential shall be improved or used except by a dwelling or structure designated to accommodate not more than a single family, plus a garage, fencing and such other Improvements as are necessary or customarily incident to a single-family residence. Each such dwelling on a platted Lot shall have an attached or detached garage for two (2) or more cars. Garages shall be used for the storage of automobiles and other personal property. No garage shall be converted into living space unless a replacement garage complying with the provisions of this Declaration is constructed prior to such conversion and such conversion is approved by the ACC. But, in general, all outbuildings will be constructed of the same materials and be consistent with the architectural design of the primary residence. As used herein, the term "residential purposes" shall be construed to prohibit mobile homes or trailers being placed on the Lots, or the use of said Lots for garage apartments. No Lot shall be used for business or professional purposes of any kind (including, without limitation, childcare), not for any commercial or manufacturing purposes. Outbuildings, storage sheds, and dog houses shall be permitted subject to the prior written approval of the ACC, but must be hidden from view from any street or behind a six foot (6') wooden privacy fence. All one-story single family residential structures shall have a living area of not less than one thousand eight hundred (1,800) square feet, exclusive of open and closed porches, patios, garages, port-a-caches, balconies or decks. All two-story single family residential structures shall have a living area of not less than two thousand two hundred (2,200) square feet, exclusive of open and closed porches, patios, garages, port-a-caches, balconies or decks.

4.05 Rentals. Nothing in this Declaration shall prevent the rental of any Property within the Property by the Owner thereof for residential purposes. Leases must be for periods of at least six (6) months.

**4.06 Construction in Place.** All dwellings and structures, except children's playhouses constructed within the Property, shall be built in place on the Lot (the use of pre-fabricated materials shall be allowed only with the prior written approval of the ACC), it being the intent of this Declaration that only new construction shall be placed and erected on the Property.

**4.07 Set-Back Requirements.** No building or structure shall be located on any Lot nearer the street than the setback lines on the recorded plat or fifty feet (50'), whichever is greater. Likewise, no building or structure shall be located nearer than ten feet (10') to an interior Lot line shown on the plat, or nearer than twenty-five feet (25') to the rear Lot line or other setback requirements as may be imposed by local ordinance, or nearer than twenty-five feet (25') on the street side of a corner lot. Fences shall not be considered as part of a structure for purposes of this Section. In the event a buyer purchases two (2) or more adjoining Lots and desires to construct a dwelling across the common side Lot line(s), the ACC may permit such act by written waiver of the side Lot line setbacks, provided there is not then, or known to be planned, any utility easement along the common side Lot line. Said approval will be subject to the approval of and compliance with any City, County or State statutes or guidelines.

**4.08 Yards and Sprinkler Systems.** All yards, including trees and plantings of all types, shall be well maintained and kept neat, trim and free of debris at all times. The front yard of any residence shall consist of that area between the street or streets adjacent to the Lot, the Property lines on each side of the Lot, and the front building line or lines of the residence extended to the Property lines on each side of the Lot. All required sodded areas of each residence shall contain an underground sprinkler system of a design adequate to water the designated area referenced on "Exhibit One" attached.

**4.09 Driveways.** All driveways must be at least twelve feet (12') wide and constructed of concrete. Garage doors shall not be visible from the street or streets adjacent to the Lot without the prior written approval of the ACC.

**4.10 Swimming Pools.** Moveable above-ground swimming pools are strictly prohibited. All swimming pools must be in a fenced enclosure.

## ARTICLE V

### THE ASSOCIATION

**5.01 Organization.** The Association shall be a non-profit corporation created for the purposes, charged with the duties, and invested with the powers prescribed by law or set forth in its Articles and Bylaws and in this Declaration. Neither the Articles nor Bylaws shall for any reason be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration.

**5.02 Membership.** The Owner of each Lot, whether such Owner be one or more persons or entities, shall, upon and by virtue of becoming such Owner, automatically become a member of the Association and shall remain a member thereof until his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership in the Association shall be appurtenant to and shall automatically follow the fee ownership of each Lot and may not be separated from such ownership. Whenever the fee ownership of any Lot passes

from one person to another, by whatever means, it shall not be necessary that any instrument provide for transfer of membership in the Association, and no certificate of membership will be issued.

**5.03 Voting.** The Owners shall be entitled to one (1) vote per Lot owned. If more than one (1) person holds an interest in any Lot, all such persons shall be members of the Association, and the vote for such multiply-owned Lot shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

**5.04 Joint or Common Ownership.** Any Property interest, entitling the Owner(s) thereof to vote as herein provided, held jointly or in common by more than one (1) person, shall require that the Owner(s) thereof designate, in writing, the individual person or Owner who shall be entitled to cast such vote(s) and no other person shall be authorized to vote in behalf of such Lot. A copy of such written designation shall be filed with the Secretary of the Board before any such vote may be cast, and upon the failure of the Owner(s) thereof to file such designation, such votes shall neither be cast nor counted for any purpose whatsoever.

**5.05 Proxy Voting.** Any Owner, including DECLARANT, may give a revocable written proxy to any person, authorizing such person to cast the Owner's votes on any matter. Such written proxy shall be in such form as may be prescribed by the Bylaws, but no such proxy shall be valid for a period of greater than eleven (11) months, and shall not be valid unless filed with the Secretary of the Board of Directors in the manner required by the Bylaws.

**5.06 Cumulative Voting.** The cumulative system of voting shall not be allowed.

**5.07 Quorum for Membership Action.** With respect to any annual or special "general" membership meeting of the Association, at the first call of such meeting, the presence at the meeting in person or by proxy of sixty-six percent (66%) of the total votes of the membership shall constitute a quorum. If the required quorum is not forthcoming, at such meetings, the meeting may be adjourned and recalled on the same day, and the required quorum at such meeting shall be one-half (1/2) the required quorum at such meeting immediately preceding. This procedure shall be continued until a quorum has been obtained.

**5.08 Board of Directors and Officers.** The affairs of the Association shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint, in accordance with the Articles of Incorporation and Bylaws, as the same may be amended from time to time. Initially, the Board will be composed of appointees of DECLARANT. After seventy-five percent (75%) of the lots in the Subdivision, including any and all lots which may be added to the Subdivision pursuant to Section 2.02 hereof, have been conveyed by Contract for Deed or Deed, and Developer has no intention of adding any additional lots or sections to the Subdivision, the initial members of the Committee shall arrange for an election of the members to elect three (3) members of the Association to replace them on the Improvement Committee. The election shall be in accordance with Section 5.03 hereof.

**5.09 Duties of the Association.** Subject to and in accordance with these restrictions, the Association, acting through the Board, shall have and perform each of the following duties:

A. Association Property.

(1) Ownership and Control. To accept, own, operate and maintain all Local Common Areas, Private Roadways, and Recreation and Open Spaces which may be conveyed to it by DECLARANT, together with all Improvements of whatever kind and for whatever purpose which may be located in said areas; and to accept, own, operate and maintain all other property, real and personal, conveyed to the Association. All of the areas designated as common areas on the Plat are hereby dedicated as common areas for the use and benefit of all persons and entities owning property or an interest in any property in the Subdivision, and to purchasers of lots in adjoining property which has been, or may be, developed and sold by the Developer. Ownership of common areas within the Subdivision shall be conveyed to the Association when seventy-five percent (75%) of the lots in the Subdivision, including any and all lots which may become part of the Subdivision pursuant to Section 2.02 hereof, have been sold and Developer has no intention of adding additional lots or sections to the Subdivision. These restrictions shall not apply to the common areas and reserve areas shown on the Plat.

(2) Repair and Maintenance of Association Property. To maintain in good repair and condition, and make capital improvements to all lands, Improvements and other Association Property.

(3) Taxes. To pay all real and personal property taxes and other taxes and assessments levied upon or with respect to any Association Property, to the extent that such taxes and assessments are not levied directly upon the Members. The Association shall have all rights granted by law to contest the legality and the amount of such taxes and assessments.

(B) Insurance. To obtain and maintain in effect policies of insurance adequate, in the opinion of the Board, in kind and amount to carry out the Association functions.

(C) Rules and Bylaws. To make, establish and promulgate, and in its discretion to amend or repeal and re-enact, such Colony Residential Rules and Bylaws not in conflict with this Declaration, as it deems proper, covering any and all aspects of its functions, including the use and occupancy of Association Property. Without limiting the generality of the foregoing, such Colony Residential Rules may set dues and fees and prescribe the regulations governing the operation of Association Property. Such Colony Residential Rules may also prescribe regulations governing the use of the Local Common Areas and the Recreation and Open Space and establish charges for the use of the Recreation and Open Space by Owners or non-Owners. Each Member shall be entitled to examine such Colony Residential Rules and Bylaws at any time during normal working hours at the principal office of the Association.

(D) Architectural Control Committee. To appoint and remove Members of the ACC after DECLARANT has delegated such rights to the Association pursuant to Article VI, Section 6.16.

(E) Enforcement. To enforce on its own behalf and on behalf of all Owners, this Declaration, as beneficiary of said covenants, conditions and restrictions and as assignee of

DECLARANT; and to perform all other acts, whether or not anywhere expressly authorized herein, as may be reasonably necessary to enforce any of the provisions of The Colony Residential Restrictions. The Board shall be authorized to institute litigation, settle claims, enforce liens and take all such action as it may deem necessary or expedient to enforce the provisions of The Colony Residential Restrictions; provided, however, that the Board shall never be authorized to expend any Association funds for the purpose of bringing suit against DECLARANT, its heirs, successors and assigns.

(F) Financing. To execute mortgages, both construction and permanent, for the construction of facilities, including improvements on Property owned by or leased to the Association, and to accept lands in Recreation and Open Spaces, whether or not improved, from DECLARANT subject to such mortgages or by assuming such mortgages. Financing may be effected through conventional mortgages or deeds of trust, the issuance and sale of development or other bonds, or in any other form or manner as may be deemed appropriate by the borrower, whether DECLARANT or the Association. The mortgage or other security interest given to secure repayment of any debt may consist of a first, second or other junior lien as shall be deemed appropriate by borrower, whether DECLARANT or the Association, on the improvement or other facility to be constructed, together with such underlying and surrounding lands as the borrower deems appropriate. The debt secured by such mortgage or other security instrument may be retired from and secured by the revenues generated by dues, use fees, assessment of the Members of the Association, or otherwise, or any combination thereof, as may be deemed appropriate by DECLARANT or the Association, as the case may be, but subject to the limitations imposed by this Declaration.

(G) Records. To keep books and records of the Association's affairs.

(H) Other. To carry out and enforce all duties of the Association set forth in The Colony Residential Restrictions.

5.10 Powers and Authority of the Association. The Association shall have the powers of a Texas non-profit corporation, subject only to such limitations upon the exercise of such power as are expressly set forth in this Declaration. It shall further have the power to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers granted to it by the laws of Texas or by this Declaration. Without in any way limiting the generality of the two preceding sentences, the Association shall have the power and authority at all times as follows:

(A) Assessments. To levy assessments as provided in Article VIII below. An assessment is defined as that sum which must be levied in the manner and against the Property set forth in Article VIII hereof in order to raise the total amount for which the levy in question is being made.

(B) Limitation on Annual Assessment. Until changed by the Association in accordance with the Bylaws and this Section, the annual assessment on each Lot shall be Five Hundred Dollars (\$500.00) per Lot. Of this annual assessment, One Hundred Fifty Dollars (\$150.00) shall be earmarked for private road and right-of-way maintenance as further described in Section 7.04 and will be utilized solely for that purpose. On January 2<sup>nd</sup> of each year, or at such other time as the Board of Directors deems appropriate, the Board of Directors may set the annual assessment for

the calendar year at whatever level they deem appropriate, however, the Board of Directors may increase the annual assessment by a maximum of twenty percent (20%) of the then current assessment in any given year. Further, such percentage increases are not cumulative and may be prospective only. Any increase in assessment not provided for in this Section must be made by the Association as a whole, in the same manner as an amendment to the Articles of Incorporation of the Association.

(C) **Right of Entry and Enforcement.** To enter at any time in an emergency, or in a non-emergency after Notice required by Article III, Section 3.10(A)(1), without being liable to any Owner, upon any portion of the Property or into any Improvement thereon, or onto any Local Common Area, Recreation or Open Space for the purpose of enforcing The Colony Residential Restrictions or for the purpose of maintaining or repairing any area, Improvement or other facility to conform to the restrictions herein established, at the expense of the Owner thereof, if, for any reason whatsoever, the Owner thereof fails to maintain or repair any such area as required by The Colony Residential Restrictions. An emergency shall exist where circumstances result in an immediate threat to Property, or the health and welfare of persons. The Association shall also have the power and authority from time to time, in its own name and on its own behalf, or in the name of and on behalf of any Owner who consents thereto, to commence and maintain actions and suits to enforce, by mandatory injunction or otherwise, or to restrain and enjoin, any breach or threatened breach of The Colony Residential Restrictions.

(D) **Conveyances.** To grant and convey to any person or entity the real Property and/or other interest therein, including fee title, leasehold estates, easements, rights-of-way, or mortgages out of, in, on, over, or under any Association Property for the purpose of constructing, erecting, operating or maintaining thereon, therein or thereunder:

- (1) Parks, parkways, campgrounds, or other recreational facilities or structures;
- (2) Roads, streets, walks, driveways, trails and paths;
- (3) Lines, cables, wires, conduits, pipelines or other devices for utility purposes;
- (4) Sewers, water systems, storm water drainage systems, sprinkler systems and pipelines; and
- (5) Any similar public, quasi-public, or private Improvements or facilities.

Nothing above contained, however, shall be construed to permit use or occupancy of any Improvement or other facility in a way which would violate applicable use and occupancy restrictions imposed thereon by other provisions of this Declaration.

(E) **Manager.** To retain and pay for the services of a person or firm (the "Manager") to manage and operate the Association, including its Property, to the extent deemed advisable by the Board. Additional personnel may be employed directly by the Association or may be furnished by the Manager. To the extent permitted by law, the Association and the Board may delegate any other duties, powers and functions to the Manager. The Owners hereby release the Association and the members of the Board from liability for any omission or improper exercise by the Manager of any such duty, power or function so delegated. Any management agreements entered into by the

Association shall provide that the agreement may be terminated by the Association, without cause, upon sixty (60) days written notice.

(F) Legal and Accounting Services. To retain and pay for legal and accounting services necessary or proper in the operation of the Association, the operation and management of its Property, the enforcement of The Colony Residential Restrictions, or in the performance of any other duty, right, power or authority of the Association.

(G) Association Property Services. To pay for water, sewer, garbage removal, landscaping, gardening, electric and all other utilities, services and maintenance for the Property of the Association.

(H) Other Areas. To maintain and repair easements, roads, roadways, rights-of-way, parks, parkways, median strips, sidewalks, paths, trails, ponds, lakes and other areas of the Community, as appropriate.

(I) Recreational Facilities. To own and operate any and all types of facilities for both active and passive recreation. The Association, with the consent of DECLARANT, may open the Recreation and Open Space for use by non-Owners and may levy charges in such amount as may be deemed reasonable by the Association for the use of the Recreation and Open Space by either Owners or non-Owners.

(J) Other Services and Properties. To obtain and pay for any other property and services, and to pay any other taxes or assessments which the Association or the Board is required to secure or to pay for pursuant to applicable law or the terms of The Colony Residential Restrictions.

(K) Construction of Association Property. To construct new improvements or additions to the Association Property.

(L) Contracts. To enter into contracts with DECLARANT and other persons on such terms and provisions as the Board shall determine, to operate and maintain any Local Common Area or Recreation and Open Space, or to provide any service or perform any function on behalf of DECLARANT or other person.

(M) Permits/Licenses. To obtain and hold any and all types of permits and licenses, and to operate restaurants and club facilities, if applicable.

(N) Own Property. To acquire and own and to dispose of all manner of real and personal property, whether by grant, lease, gift or otherwise.

(O) Create Another Association. To create a subsidiary or other association to have the rights and powers, and to perform the duties, obligations or functions necessary to the obtaining of a tax exemption, if it shall ever be ruled or held that an exemption under the Internal Revenue Code is unavailable to the Association under this Declaration; or alternatively, the Association may retain the rights, powers, duties, obligations and functions which prevent the obtaining of the tax exemption and transfer some or all of its other rights, powers, duties, obligations, and functions to such subsidiary or other association.

### 5.11 Indemnification.

(A) Determination by Board. The Association shall indemnify any person who was or is a party, or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative, or investigative by reason of the fact that he is or was a director, officer, committee member, employee, servant or agent of the Association against expenses (including attorney's fees, judgments, fines and amounts paid in settlements) actually and reasonably incurred by him in connection with such action, suit or proceeding if it is found and determined by the Board or a court that he (1) acted in good faith and in a manner he reasonably believed to be in, or not opposed to, the best interests of the Association, or (2) with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by settlement, or upon a plea of *Nolo Contendere* or its equivalent, shall not of itself create a presumption that the person did not act in good faith or in a manner which he reasonably believed to be in, or not opposed to, the best interests of the Association, or, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

All liability, loss, damage, costs and expenses incurred or suffered by the Association by reason or arising out of or in connection with the foregoing indemnification provisions shall be treated and handled by the Association as common expenses; provided, however, that nothing contained in this Article V shall be deemed to obligate the Association to indemnify any Member or Owner, who is or has been a director, officer, committee member, or non-compensated agent of the Association, with respect to any duties or obligations assumed or liabilities incurred by him under and by virtue of the restrictive covenants as a Member of the Association or Owner of a Lot covered thereby.

(B) Insurance. The Board may purchase and maintain insurance on behalf of any person who is or was a director, officer, committee member, employee, servant or agent of the Association, against any liability asserted against him or incurred by him in any such capacity, or arising out of his status as such, whether or not the Association would have the power to indemnify him against such liability hereunder or otherwise.

## ARTICLE VI

### ARCHITECTURAL CONTROL COMMITTEE

6.01 Membership of Architectural Control Committee. The ACC shall consist of not less than three (3) and no more than seven (7) voting members ("Voting Members"), and such additional non-voting members serving in an advisory capacity ("Advisory Members") as the Board deems appropriate.

6.02 Action by Architectural Control Committee. Items presented to the ACC shall be decided by a majority vote of the current voting members of the ACC.

6.03 Term. Each Member of the Association shall hold office until such time as he has resigned or has been removed or his successor has been appointed, as provided herein.

**6.04 DECLARANT'S Rights of Appointment.** DECLARANT shall have the right to appoint and remove all Members of the ACC, voting and non-voting, prior to the delegation of such power to the Owner(s), if ever, pursuant to Section 6.16 hereof. In making such appointments to the ACC, DECLARANT shall consider, but not be bound by, nomination made by the Owner(s). Nothing herein shall be construed to limit or restrict in any manner the DECLARANT'S right to remove Members of the ACC who were appointed by DECLARANT, whether or not such person was nominated by the Owner(s).

**6.05 Duties.**

(A) General. It shall be the duty of the ACC to receive, consider and act upon all proposals, plans, complaints, requests for determination, Plans and Specifications or other matters submitted pursuant to the terms of this Declaration, and to carry out all other duties imposed in it by this Declaration.

(B) Consultant. The ACC may, but need not, hire specialized consultants and incur expenses up to Fifty Dollars (\$50.00), to aid it in reviewing plans and their incidents. The cost of such specialized consultants and expenses shall be considered to be a cost of the Plans and Specifications of the Lot Owner. Payment of such costs shall be considered as a filing requirement of the Plans and Specifications, and such Plans will not be considered unless and until such costs are paid.

**6.06 Adoption of Rules.**

(A) The ACC may adopt such procedural and substantive rules, not in conflict with this Declaration, as it may deem necessary or proper for the performance of its duties.

(B) Unless and until a political subdivision of the State of Texas regulates such matters by law in the Property, the rules promulgated by the ACC may include building codes governing all types of construction on the Property, a fire code, a housing code, and other similar codes as the ACC deems necessary and desirable. To the extent possible, these codes shall (i) be performance based, (ii) encourage the use of new technologies, techniques and materials, and (iii) be compatible with the codes of Bastrop County, Texas and the Uniform Building Code.

**6.07 Review of Proposed Construction.** Whenever in this Declaration or in any Supplemental Declaration the approval of the ACC is required, it shall have the right to consider all of the Plans and Specifications for the Improvement or proposal in question and all other facts which, in its sole discretion, are relevant. Except as provided in Sections 9.06 and 9.07 below, prior to commencement of any construction of any Improvement on the Property or any portion thereof, the final Plans and Specifications thereof shall be submitted to the ACC, and construction thereof may not commence unless and until the ACC has approved such Plans and Specifications in writing. The ACC shall consider and act upon any and all Plans and Specifications submitted for its approval pursuant to this Declaration and perform such other duties assigned to it by this Declaration or as from time to time shall be assigned to it by the Board, including the inspection of construction in progress, to assure its conformance with Plans and Specifications approved by the ACC. The ACC shall not be responsible for reviewing any proposed Improvement, nor shall its approval of any Plans or Specifications be deemed approval thereof, from the standpoint of structural safety, engineering soundness, or conformance with building or other codes.

#### 6.08 Procedure for Submission and Approval of Plans and Specifications.

(A) Submission and approval of Plans and Specifications shall be in accordance with the rules promulgated by the ACC, as authorized by this Section 6.08.

(B) If the ACC fails to approve or disapprove any material or Plans and Specifications submitted to it hereunder within thirty (30) days after the date shown on the submittal receipt ("Approved Period") or to give notice of its actions as above required, it shall be conclusively presumed that the ACC has approved such materials as submitted. If the ACC requests additional or amended materials or amended Plans and Specifications ("Amendments") during the initial Approval Period, the Approval Period shall be automatically extended for fifteen (15) days following the date upon which such Amendments have been submitted. If the Amendments are not submitted on or before the date specified by the ACC (or if no time is specified, within fifteen (15) days after the Amendments are requested) (the "Amendment Deadline"), then the Plans and Specifications shall be automatically disapproved. If the ACC approves Plans and Specifications on the condition that certain Amendments be submitted ("Conditional Approval"), such Conditional Approval shall expire if the Amendments are not received by the Amendment Deadline.

6.09 Meetings of the Architectural Control Committee. The ACC shall meet from time to time as necessary to perform its duties hereunder. The ACC may, by resolution unanimously adopted in writing, designate one of its Members to take any action or perform any duties for and on behalf of the ACC, except the granting of variances as hereinafter provided. In the absence of such designation, the vote of a majority of all the Members of the ACC taken without a meeting shall constitute an act of the ACC.

6.10 Action Without Formal Meetings. The ACC may take action without formal meeting by unanimously consenting in writing on any matter which it might consider at a formal meeting. Such unanimous written consent shall constitute the act of the ACC. For the purpose hereof, unanimous written consent shall mean a writing by the regular Members of the ACC.

6.11 No Waiver of Future Approvals. The approval or consent of the ACC to any Plans or Specifications for any work done or proposed or in connection with any other matter requiring the approval or consent of the ACC shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any Plans and Specifications, or other matter whatever, subsequently or additionally submitted for approval or consent by the same or a different person.

6.12 Non-Liability of Architectural Control Committee Members. Neither the ACC, nor any Member thereof, nor the Board nor any member thereof, shall be liable to the Association or to any Owner or to any other person for any loss, damage or injury arising out of their being in any way connected with the performance of the ACC's or the Board's respective duties under this Declaration unless due to the willful misconduct or bad faith of the ACC or its Member or the Board or its Member, as the case may be. Neither the ACC nor the Members thereof shall be liable to any Owner due to the construction of any Improvements within the Property or the creation thereby of an obstruction to the view from such Owner's Lot or Lots.

6.13 Variances. The ACC may grant variances from compliance with any of the provisions of this Declaration or any Supplemental Declaration, including, but not limited to,

restrictions upon height, bulk, size, shape, floor area, lot area, placement of structures, set-backs, building envelopes, colors, materials, or land use when in the opinion of the ACC, in its sole and absolute discretion, such variance will not be adverse to the overall development plan for the Community. Such variances must be evidenced in writing and must be signed by at least a majority of the Voting Members of the ACC. If a variance is granted, no violation of the covenants, conditions, or restrictions contained in this Declaration or any Supplemental Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such a variance shall not operate to waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular Property and in the particular instance covered by the variance.

**6.14 Guidelines for Building.** The ACC may promulgate a set of guidelines not in conflict with this Declaration and any Supplemental Declarations for building and developing in the Community which shall be general in nature and may be amended from time to time by the ACC.

**6.15 Submission of Final Plans and Specifications.** The final Plans and Specifications shall be submitted in triplicate to the ACC in care of Sabine Investment Company of Texas, Inc., Attention: Steve Mills, 139 Spanish Oak Trail, Elgin, Texas 78621, or such other address as may be designated from time to time, one copy of which will be returned to the person submitting the Plans with an endorsement as to the date received by the ACC.

**6.16 Delegation of Appointment Powers.** The DECLARANT shall have the right, but not the obligation, to delegate to the Association in writing the right to appoint and remove Members of the ACC and upon such written delegation of authority filed of record in the Real Property Records of Bastrop County, Texas, the selection of Voting Members to serve on the ACC shall be by separate election in which the Owners shall have the same relative voting power as provided hereinabove for elections of the Association.

**6.17 Inspection of Work.**

(A) **Completed Work.** Inspection of completed work and correction of defects shall proceed as follows:

(1) Upon the completion of any improvement for which the final Plans and Specifications were approved under this Declaration, the Owner shall give written notice of completion to the ACC.

(2) Within such reasonable time as the ACC may set in its rules, but not to exceed fifteen (15) days thereafter, the ACC or its duly authorized representative may inspect such improvement. If the ACC finds that such work was not done in strict compliance with all approved Plans and Specifications, it shall notify the Owner in writing of such noncompliance within five (5) days, specifying in reasonable detail the particulars of noncompliance, and shall require the Owner to remedy the same.

(3) If upon the expiration of thirty (30) days from the date of such notification the Owner shall have failed to remedy such noncompliance, the ACC shall notify the Board of Directors in writing of such failure. Upon notice to the Owner, given as provided in Section 9.04, the Board shall conduct a Hearing at which it shall determine whether there is

noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If noncompliance exists, the Owner shall remedy or remove the same within a period of not more than sixty-five (65) days from the date of announcement of the Board ruling. If the Owner does not comply with the Board's ruling within such period, the Board, at its option, may either remove the noncomplying Improvement or remedy the noncompliance, and the Owner shall reimburse the Association upon demand for all reasonable expenses incurred in connection therewith. If such expenses are not promptly repaid by the Owner to the Association, the Board shall levy an assessment against such Owner and Improvement in question, and the land upon which the same is situated, for reimbursement, and the same shall constitute a lien upon such land and Improvement and be enforced as in this Declaration provided.

(4) If for any reason after receipt of said written notice of completion from the Owner, no inspection is made or any noncompliance is not found within the period provided above in Subparagraph (2) of this Section 6.17(A), the Improvement shall be deemed to be in accordance with said approved Plans and Specifications. In the instances where an inspection has occurred and the Improvements are in compliance, upon request, the ACC shall issue a "Certificate of Compliance" in a form suitable for recording. The certificate shall identify the Lot or Property and the Improvement, and shall certify only that the Improvements thereon are not in violation of the covenants of the Declaration, or if they are in violation, a variance has been granted. **THE CERTIFICATE SHALL NOT BE CONSTRUED TO CERTIFY THE ACCEPTABILITY, SUFFICIENCY OR APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE OF THE ACTUAL CONSTRUCTION OF THE IMPROVEMENTS OR OF THE WORKMANSHIP OR MATERIALS THEREOF. THE OWNER IS HEREBY NOTIFIED THAT THE CERTIFICATE IN NO WAY WARRANTS THE SUFFICIENCY, ACCEPTABILITY OR APPROVAL BY THE ARCHITECTURAL CONTROL COMMITTEE OF THE CONSTRUCTION, WORKMANSHIP, MATERIALS OR EQUIPMENT OF THE IMPROVEMENTS. RECORDATION OF SUCH A CERTIFICATE SHALL BE AT THE EXPENSE OF THE OWNER OF THE IMPROVED LOT.**

(B) **Work in Progress.** The ACC may inspect all work in progress and give notice of noncompliance as provided above in Subparagraph (2) of this Section. If the Owner denies that such noncompliance exists, the procedures set out in Subparagraph (3) of this Section shall be followed, except that no work shall be done, pending resolution of the dispute, which would hamper correction of the noncompliance if the Board should ultimately find that noncompliance exists.

**6.18 Governmental Agency Approval.** Nothing in this Declaration shall relieve or be interpreted as purporting to relieve any Owner from also securing such approval(s), certificate(s) or permit(s) of any governmental agency of entity (including but not limited to the City of Bastrop or Bastrop County, Texas) with jurisdiction as may be required by law, as a condition to the commencement, construction, maintenance, addition, change or alteration to or of any Improvement, and the ACC may require that a copy of such approval(s), certificate(s) or permit(s) be provided to the ACC as a final condition to approval of Plans and Specifications, or as additional insurance to the ACC that the Improvements and uses of approved Plans and Specifications meet governmental requirements, or for both such purposes.

ARTICLE VII

ASSOCIATION PROPERTY

7.01 Use. Each Owner, the members of his family who reside with him and each lessee of any portion of the Property and the members of his family who reside with him in the Community shall be entitled to use the Property owned by the Association subject to:

(A) The provisions of The Colony Residential Restrictions, and each person who uses any Property of the Association, in using the same, shall be deemed to have agreed to comply therewith;

(B) The right of the Association to charge reasonable dues and use fees, which fees shall be in addition to assessments levied pursuant to Article VIII.

(C) The right of the Association to suspend the rights to the use of any Property of the Association by any Member or lessee and their respective families, guests and invitees for any period during which any assessment against the Member's Property remains past due and unpaid; and, after Notice and Hearing by the Board, the right of the Association to invoke any remedy set forth herein for any other infraction.

(D) The right of the Association, upon demand, to require that a security deposit be made and kept with the Association to secure all sums, and to guarantee performance of all duties, due and owing or to become due and owing, to the Association;

(E) Such rights to use Association Property as may have been granted by the Association or prior Owners of Property of the Association to others; and

(F) Such covenants, conditions and restrictions as may have been imposed by the Association or prior Owners of Property of the Association.

7.02 Damages. Each Member and lessee described above shall be liable to the Association for any damage to Property of the Association which may be sustained by reason of the negligent or intentional misconduct of such person or of his family, guests or invitees. If the Property, the ownership or leasing of which entitles the Owner or lessee thereof to use Association Property, is owned or leased jointly or in common, the liability of all such joint or common Owners or lessees shall be joint and severable. The amount of such damage may be assessed against such person's real and personal property on or within the Property, including the leasehold estate of any lessee or the lessor of such lessee, and may be collected as provided in Article VIII below for the collection of assessments.

7.03 Damage and Destruction. In case of destruction of or damage to Association Property by fire or other casualty, the available insurance proceeds shall be paid to the Association for the benefit of the Members and their mortgagees, and the Association shall contract to repair or rebuild the Association Property so damaged. Should the insurance proceeds be insufficient to pay all of the costs of repairing or rebuilding the damage, the Association may levy a special assessment as provided for in Article VIII to make good any deficiency. If the Board determines not to rebuild

any Property so destroyed or damaged, or to build facilities substantially different from those which were destroyed or damaged, it shall call a special meeting of the Members to consider such decision. If the Members, by three-fourths (3/4) of the votes cast at such meeting, elect to ratify such decision, the Board shall act accordingly; but if the Members do not by such percentage elect to ratify such decision, the Board shall proceed to repair or rebuild the damaged or destroyed facility with payment therefor to be made as set forth in this Section.

**7.04 Ownership, Maintenance, and Assessments for Maintenance of Private Roadways Within The Colony.** In accordance with the provisions and authority granted under Sections 5.09(A)(1) and 5.10(A) and Article 8 of the Declaration, the Association shall own and have the obligation to maintain, and to levy and collect assessments for the maintenance of all roadways located in The Colony (collectively, the "Private Roadways"), as those Private Roadways are depicted on the final subdivision plat for The Colony, and any security gates or other devices controlling access (the "Security Facilities") to the Private Roadways. The Declaration shall levy assessments against each Lot adjoining or benefiting from the Private Roadways for maintenance of the Private Roadways and the Security Facilities, as the Association determines appropriate and in accordance with the provisions of the Declaration. The Private Roadways shall not be dedicated to or maintained by Bastrop County. If the Private Roadways are acquired by Bastrop County, an inspection by Bastrop County and/or the City of Bastrop may be required and modifications and improvements to said Private Roadways may be necessary before the County or City of Bastrop will accept the streets, and all Security Facilities shall be removed by the Association to meet Bastrop County standards. Further, an express easement is hereby granted across the Private Roadways and any adjoining Common Areas for the use of the surface for all governmental functions, vehicular and non-vehicular, including fire and police protection, solid and other waste material pick up and any other purpose any governmental authority deems necessary, and DECLARANT does further agree that all governmental entities, their agents or employees, shall not be responsible or liable for any damage occurring to the surface of the Private Roadways and adjoining Common Area as a result of governmental vehicles traversing over same.

## ARTICLE VIII

### MAINTENANCE FUNDS AND ASSESSMENTS

**8.01 Maintenance Fund.** The Board shall establish a fund (the "Maintenance Fund") into which shall be deposited all monies paid to the Association and from which disbursements shall be made in performing the functions of the Association under this Declaration. The funds of the Association must be used solely for purposes related to the areas and improvements owned by or leased to the Association, or subject to these restrictions, for maintenance or operation by the Association or otherwise for purposes authorized by this Declaration, as it may from time to time be amended. Nothing contained herein shall limit, preclude or impair the establishment of other maintenance funds by a subassociation pursuant to any Supplemental Declaration, as hereinafter provided in Section 2.01.

**8.02 Regular Annual Assessments.** Prior to the beginning of each fiscal year, the Board shall estimate the expenses to be incurred by the Association during such year in performing its functions under The Colony Residential Restrictions, including a reasonable provision for contingencies and appropriate replacement reserves, less any expected income and any surplus from

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the prior year's fund, and shall levy an annual assessment in the manner hereinafter provided against the Owners of any Lot, hereinafter referred to as the Property. If the sums collected prove inadequate for any reason, including nonpayment of any individual assessment, the Association may at any time, and from time to time, increase the amount of the annual assessments as necessary to satisfy the actual expenses incurred by the Association in performing its functions under this Declaration. All such assessments shall be due and payable to the Association during the fiscal year in annual installments on or before an anniversary date based on the fiscal year as established by the Association. The assessment per lot will be paid at closing and will be prorated to the end of the fiscal year. DECLARANT reserves the right to waive dues to developers or builders as it, in its sole discretion, determines.

**8.03 Special Assessments.** In addition to the regular annual assessments provided for above in Section 8.02, the Board may levy special assessments whenever in the Board's opinion such special assessments are necessary to enable the Board to carry out the functions of the Association under The Colony Residential Restrictions.

**8.04 Division of Assessment Among Owners.** Assessments made by the Association under Sections 8.02 and 8.03 shall be divided equally among all the Owners of Lots located within the Property as described in the exhibits to this Declaration, as amended.

**8.05 Assessment Benefiting Specific Areas.** The Association shall also have authority to levy assessments against specific local areas and improvements to be expended for the benefit of the Properties so assessed. The assessments levied under this Section shall be levied in proportion to the benefits conferred or to be conferred, as determined by the Board, and therefore the amount levied against each parcel of land or improvement need not be equal. Any such assessments shall constitute a lien on the Properties so assessed, and such liens shall be enforced in the same manner and to the same extent as provided for regular and special assessments in this Article.

**8.06 Assessment on Sale, Transfer or Conveyance of Property.** Any Property sold, transferred, or conveyed by the Owner (the "Transfer"), whether by deed, contract for deed, contract for sale, assignment or other instrument transferring title, or a right to acquire title or an interest therein upon the Transfer, a One Hundred Dollar (\$100.00) assessment shall automatically be levied against the Property and shall be paid by the seller to the Association at the time the Transfer of the Property is closed. DECLARANT reserves the right to waive such transfer fee to builders or developers as it, in its sole discretion, determines necessary. This assessment shall not apply to the following:

1. Transfers by devise or descent or by operation of law upon the death of an Owner;
2. The creation of a lien or encumbrance upon the Property;
3. Transfer upon foreclosure of a lien judicial or nonjudicial, or transfer in contemplation of foreclosure; and
4. Transfer by the holders of mortgage lien, where title to the Property was acquired by the holder of the lien at a judicial or nonjudicial sale or conveyance in contemplation of a judicial or nonjudicial sale.

The DECLARANT shall have the right to waive the provisions of this Section 8.06 on any sales made by DECLARANT.

**8.07 Late Charges.** If any assessment made pursuant to Article VIII is not paid within thirty (30) days after it is due, the Owner will be required to pay a late charge of Ten Dollars (\$10.00).

**8.08 Unpaid Assessments as Liens.** All assessments, whether made pursuant to this Article VIII or any other article of this Declaration, if not paid within thirty (30) days after the date due, shall be deemed delinquent and in default. The amount of any delinquent assessment, and any late payment charge attributable thereto, plus interest on such assessment and late payment charge at a rate of ten percent (10%) per annum simple interest (not to exceed the maximum charge permitted under applicable law), and the costs of collecting the same, including reasonable attorney's fees, shall be the personal obligation of the Owner of the Property against which the assessment fell due and shall be a lien upon such Property. The transfer of title to such Property shall not terminate the lien, but personal obligation of the Owner shall not pass to successors in title unless they assume the obligation. The Association may either (a) bring an action at law against the Owner personally obligated to pay the same, (b) foreclose said lien against the Property, or (c) both. No Owner may waive or otherwise escape liability for any assessment to common areas of Association Property or any common area or by the abandonment of any Property. A certificate executed and acknowledged by any member of the Board stating the indebtedness accrued by such lien shall be conclusive upon the Association as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner upon request at a reasonable fee.

**8.09 Mortgage Protection.** Notwithstanding any other provision of The Colony Residential Restrictions, no lien created under this Article VIII or under any other Article of this Declaration, nor any lien arising by reason of any breach of The Colony Residential Restrictions, nor the enforcement of any provision of this Declaration or of any Supplemental Declaration, shall defeat or render invalid the rights of the Beneficiary under any recorded Mortgage of first and senior priority now or hereafter given upon the Property, made in good faith and for value. However, after a conveyance in lieu of foreclosure, such Property shall remain subject to The Colony Residential Restrictions and shall thereafter be liable for all assessments levied after such completion of foreclosure or conveyance in lieu of foreclosure.

**8.10 Effect of Amendments on Mortgages.** No amendment of Section 8.09 of this Declaration shall affect the rights of any Beneficiary whose Mortgage or deed of trust has the first and senior priority as provided in Section 8.09, unless the mortgagee consents in writing to the amendment thereof, or unless the amendment was filed of record prior to the recording of the Mortgage; provided, however, that after foreclosure, or conveyance in lieu of foreclosure, the Property which was subject to such Mortgage or deed of trust shall be subject to such amendment.

**8.11 Subordination.** The lien for assessments provided for herein shall be subordinated to the lien of any first Mortgage if the Mortgage was recorded before the delinquent assessment became due. Sale or transfer of any Property subject to unpaid assessments shall not affect the assessment lien. However, the sale or transfer of any Property subject to assessment pursuant to Mortgage foreclosure, or any proceeding in lieu thereof, shall extinguish the lien as to payments

which became due prior to such sale or transfer. No sale or transfer shall relieve such Property subject to assessment from liability for any assessments thereafter becoming due or from the lien thereof.

#### ARTICLE IX

##### MISCELLANEOUS

9.01 Term. This Declaration, including all of the covenants, conditions and restrictions hereof, shall run until December 31, 2010, unless amended as herein provided. After December 31, 2010, this Declaration, including all such covenants, conditions and restrictions, shall be automatically extended for successive periods of ten (10) years each, unless amended or extinguished by a written instrument executed by the Owners of at least three-quarters (3/4) of the Lots then subject to this Declaration.

##### 9.02 Amendment.

(A) By DECLARANT. This Declaration may be amended by the DECLARANT as long as DECLARANT holds a majority of the votes of the Association or the DECLARANT has had it intends to add which will become subject to this Declaration and any Supplemental Declarations, or after that date if the amendment is made to correct a typographical error, or to comply with the requirements of the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Government National Mortgage Association (GNMA), Federal Housing Administration (FHA), or Department of Veterans Affairs (VA). No amendment by DECLARANT shall be effective until there has been recorded in the Deed Records of Bastrop County, Texas an instrument executed and acknowledged by DECLARANT and setting forth the amendment, and an instrument executed and acknowledged by the President and Secretary of the Board certifying that the DECLARANT had the requisite number of votes.

(B) By Owners. In addition to the method in Section 9.02(A), this Declaration may be amended by the recording in the Bastrop County Real Property Records of an instrument, executed and acknowledged by the President and Secretary of the Association, setting forth the amendment and certifying that such amendment has been approved by Owners entitled to cast at least two-thirds (2/3) of the number of votes entitled to be cast pursuant to Section 5.03.

9.03 Utility Easements. The DECLARANT reserves the right to locate, construct, erect and maintain or cause to be located, constructed, erected and maintained in and on any areas conveyed to the Association or reserved as Local Common areas, Recreation and Open Spaces, or Private Roadways, sewer and other pipelines, conduits, wires and any public utility function beneath or above the surface of the ground, with the approval of the AOC and with the right of access to the same at any time for the purpose of repair and maintenance.

9.04 Notices. Unless otherwise provided herein, any notice permitted or required to be given by this Declaration shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered on the third (3<sup>rd</sup>) day (other than a Sunday or legal holiday) after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to the person at the address given by such person to the Association for

the purpose of service of notices. Such address may be changed from time to time by notice in writing given by such person to the Association.

**9.05 Interpretation.** The provisions of this Declaration shall be liberally construed to effectuate their purposes of creating a uniform plan for the development and operation of the Community and of promoting and effectuating the fundamental concepts of the Community set forth in the recitals of this Declaration. This Declaration shall be construed and governed under the laws of the State of Texas, and all obligations herein shall be performed in Bastrop County, Texas.

**9.06 Construction Activities.** This Declaration shall not be construed so as to unreasonably interfere with or prevent normal construction activities during the construction of Improvements by an Owner (including DECLARANT) upon Property within the Community. Specifically, no such construction activities shall be deemed to constitute a nuisance or a violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence, is in compliance with the provisions of this Declaration, and conforms to usual construction practices in the area. In the event of any dispute regarding such matters, a temporary waiver of the applicable provision, including, but not limited to, any provision prohibiting temporary waiver of the applicable provision and any provision prohibiting temporary structures, may be granted by the ACC, provided that such waiver shall be only for the reasonable period of such construction.

**9.07 Exemption of DECLARANT.** Notwithstanding any provision in this Declaration to the contrary, neither DECLARANT nor any of DECLARANT's activities shall in any way be subject to the control of or under the jurisdiction of the ACC. Without in any way limiting the generality of the preceding sentence, this Declaration shall not prevent or limit the right of DECLARANT to excavate and grade, to construct and alter drainage patterns and facilities, to construct any and all other types of Improvements, sales and leasing offices and similar facilities, and to post signs incidental to construction, sales and leasing anywhere within the Property.

**9.08 Assignment of DECLARANT.** Notwithstanding any provision in this Declaration to the contrary, DECLARANT may, in writing, assign, in whole or in part, any of its privileges, exemptions, rights and duties under this Declaration to any other person and may permit the participation, in whole or in part, by any other person in any of its privileges, exemptions, rights and duties hereunder.

**9.09 Enforcement and Nonwaiver.**

(A) **Right of Enforcement.** Except as otherwise provided herein, any Owner at his own expense, DECLARANT, and/or the Board of Directors, or ACC, shall have the right to enforce all of the provisions of The Colony Residential Restrictions. Such right of enforcement shall include both damages for, and injunctive relief against, the breach of any such provision.

(B) **Violation of Restrictions.** Every act or omission whereby any provision of The Colony Residential Restrictions is violated, in whole or in part, is hereby declared to be a nuisance and may be enjoined or abated by any Owner (at his own expense), DECLARANT, or the Board.

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(C) Violation of Law. Any violation of any federal, state or local law, ordinance or regulation pertaining to the ownership, occupancy or use of any of the Property is hereby declared to be a violation of The Colony Residential Restrictions and subject to all of the enforcement procedures set forth in said restrictions.

(D) Nonwaiver. The failure to enforce any provision of The Colony Residential Restrictions at any time shall not constitute a waiver of the right thereafter to enforce any such provision or any other provision of said restrictions.

(E) Lien. The Association shall have the right, when appropriate in its judgment, to claim or impose a lien upon any Lot in the Property in order to enforce any right or effect compliance with this Declaration.

9.10 Construction.

(A) Restrictions Severable. The provisions of The Colony Residential Restrictions shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(B) Singular Includes Plural. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

(C) Captions. All captions and titles used in this Declaration are intended solely for convenience of reference and shall not enlarge, limit or otherwise affect that which is set forth in any of the paragraphs, sections or articles hereof.

Executed this 26TH day of APRIL, 2000.

DECLARANT:

SABINE INVESTMENT COMPANY OF TEXAS, INC.

By: Steve Mills  
Steve Mills, Vice President

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ACKNOWLEDGEMENT

STATE OF TEXAS §

COUNTY OF BASTROP §

This instrument was acknowledged before me on the 26th day of April, 2000, by Steve Mills, Vice President of Sabine Investment Company of Texas, Inc., a Texas Corporation.



Tracie J. Bone  
Notary Public in and for the State of Texas  
Tracie J. Bone  
Printed Name

My Commission Expires:

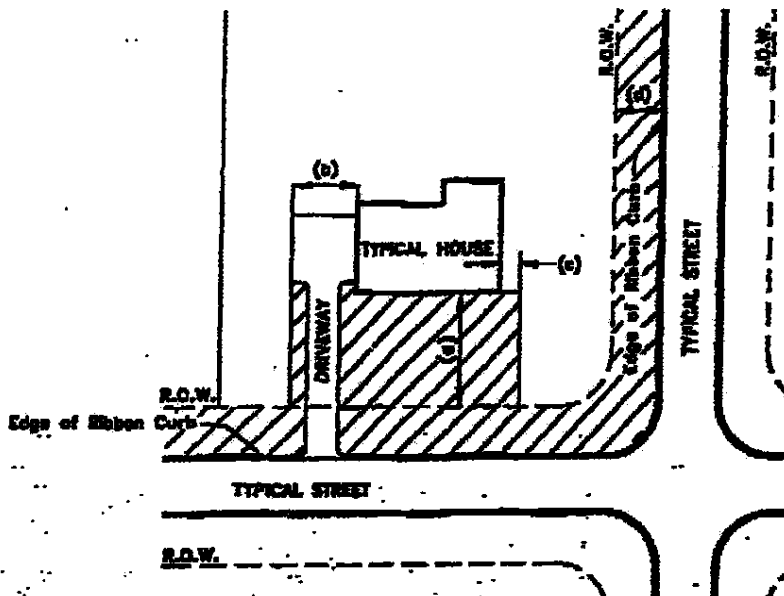
7/16/03

EXHIBIT ONE

Front yard shall be sodded per the following requirements:

- (a) Front of house to ribbon curb of streets
- (b) 30' on driveway side of house (from front plane of house to ribbon curb of street)
- (c) 10' on non-driveway side of house (from front plane of house to ribbon curb of street)
- (d) All areas along ribbon curb of streets, between the edge of the ribbon curb and the street right-of-way shall be sodded (No 'natural islands' may be located in these R.O.W. areas)
- (e) hydromulch, sprigging, checkerboarding, or seeding may not be used in lieu of sod

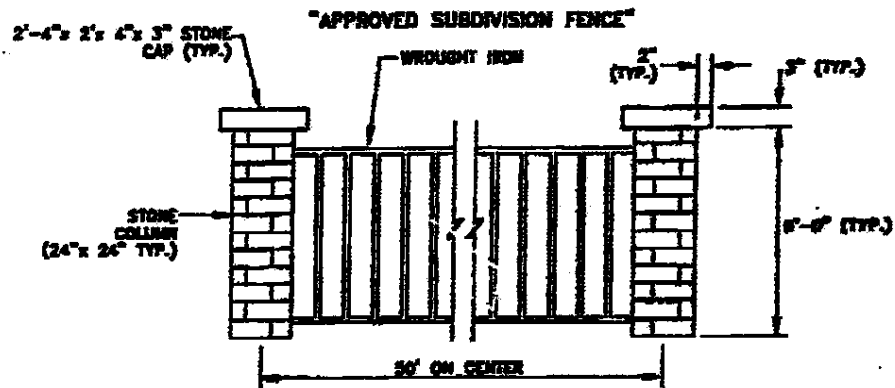
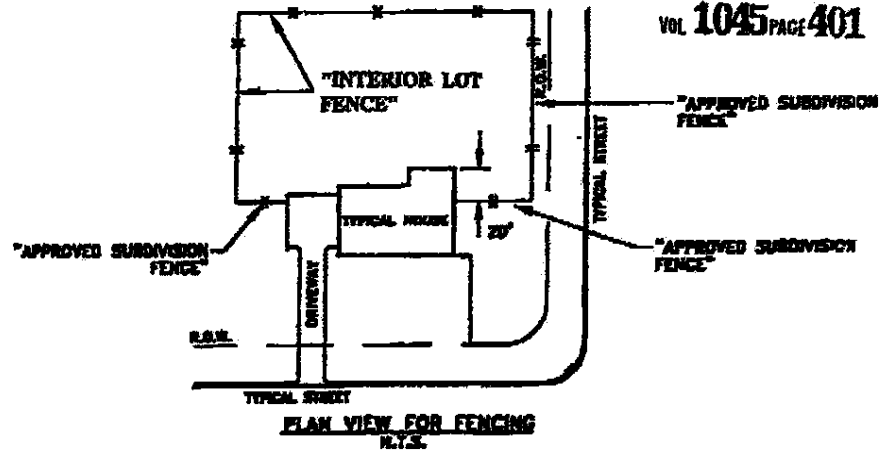
**LANDSCAPE:** Natural islands are areas maintained in their natural state. Natural island area in the frontyard cannot exceed 15% of the total frontyard area. Areas not required to be sodded can be left in their natural state.



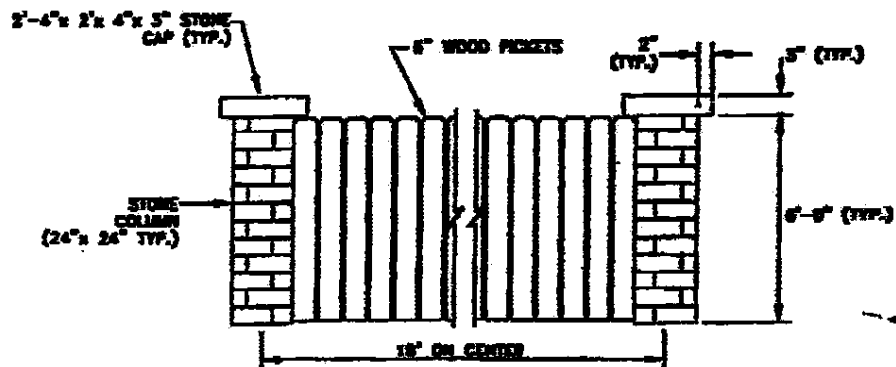
NOTE: Letters (a)-(d) shown in the drawing correspond with the written descriptions shown in this exhibit as (a)-(d).

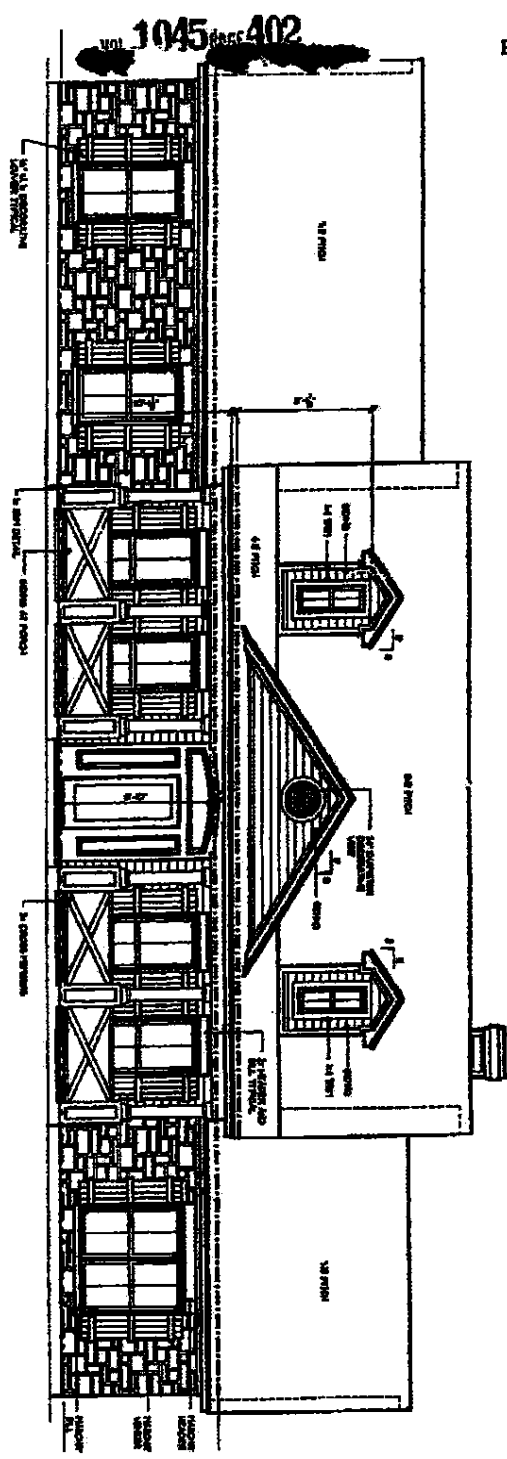
EXHIBIT TWO

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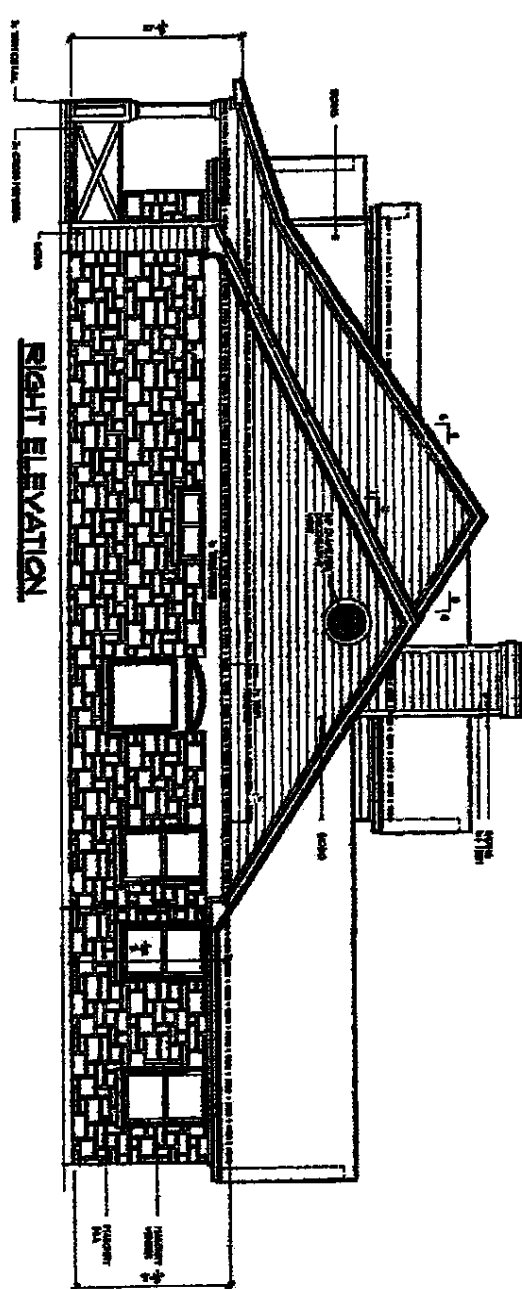
OR





FRONT ELEVATION

EXHIBIT THREE-A



RIGHT ELEVATION